

**THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL CASE NO. 1:12-cv-00370-MR-DLH**

**THOMAS STANDLEY,** )  
 )  
 **Plaintiff,** )  
 )  
 **vs.** )  
 )  
 )  
 **SHERIFF VAN DUNCAN, et al.,** )  
 )  
 **Defendants.** )  
 \_\_\_\_\_ )

**ORDER**

**THIS MATTER** is before the Court on the Motion to Dismiss [Doc. 3] filed by the United States and the Magistrate Judge's Memorandum and Recommendation [Doc. 12] regarding the disposition of that motion.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Honorable Dennis L. Howell, United States Magistrate Judge, was designated to consider the pending motion and to submit a recommendation for its disposition.

On April 11, 2013, the Magistrate Judge filed a Memorandum and Recommendation in this case containing proposed conclusions of law in support of a recommendation regarding the United States' Motion. [Doc.

12]. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has expired, and no written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that the Motion to Dismiss should be granted with respect to the claims asserted against the United States and that the Court should exercise its discretion and decline to exercise supplemental jurisdiction over the remaining state law claims.

### **ORDER**

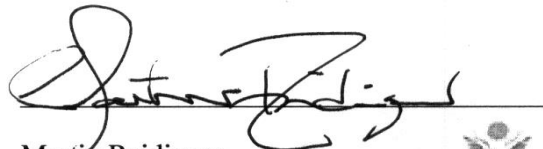
**IT IS, THEREFORE, ORDERED** that the Memorandum and Recommendation [Doc. 12] is **ACCEPTED**.

**IT IS FURTHER ORDERED** that the United States' Motion to Dismiss [Doc. 3] is **GRANTED**, and all claims asserted in the Amended Complaint against the United States are hereby **DISMISSED WITHOUT PREJUDICE** so that the Plaintiff can exhaust his administrative remedies.

In the exercise of its discretion, the Court declines to exercise supplemental jurisdiction over the Plaintiff's remaining state law claims. Accordingly, **IT IS FURTHER ORDERED** that this case is hereby **REMANDED** to the District Court for Buncombe County, North Carolina for further proceedings.

**IT IS SO ORDERED.**

Signed: May 6, 2013

  
Martin Reidinger  
United States District Judge

